

Remarks:

In the July 15, 2009, Office Action, the Examiner rejected Claims 1, 2, 4, 7, 11-17, 29-30, and 38 under 35 U.S.C. Section 102(b) as being anticipated by Harris et al. (PCT International Patent Publication WO 01/74173). Claims 1, 2, 4, 7, 11-17, 29-30, and 38 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Harris et al. in view of Johansen et al. ("Effects of Varying Content of Soluble Dietary Fibre from Wheat Flour and Oat Milling Fractions on Gastric Emptying in Pigs," Johansen et al., *British Journal of Nutrition*, **75**, 339-351). Claims 3, 5, 6, 8, and 9 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Harris et al. in view of Kanter et al. (U.S. Patent No. 6,410,067), or Harris et al. in view of Johansen et al. and Kanter et al. Claims 10, 27, 28, 33, and 34 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Harris et al. in view of Fuchs et al. (U.S. Patent Application Publication No. 2002/0044988), or Harris et al. in view of Johansen et al. and Fuchs et al. Claims 31 and 32 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Harris et al., or Harris et al. in view of Johansen et al. Claims 18-22, 24-26, 35, and 37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. in view of the teaching of Alltech (believed to be a web page entitled "Alltech to Exhibit Range of Natural Products At Space 2002" and bearing a date of August 7, 2002, but printed on a date which is illegible), or Harris et al. in view of Johansen et al. and Alltech.

Claim Amendments

Applicants have amended Claim 1 to require a polar lipid supplement that has been isolated from its natural source. Support for this claim amendment is found in the specification in paragraphs 0068-0070. This amendment is similar in nature to an amendment done in Applicants' related U.S. Patent Application No. 11/500,835, which has been allowed.

Applicants have also amended Claim 1 to require a soluble fiber source that has been fractionated from its natural origin. Support for this claim amendment is found in the specification in paragraphs 0071-0072. This amendment is also similar in nature to an amendment done in Applicants' related U.S. Patent Application No. 11/500,835, which has been allowed.

Applicants have further amended Claim 1 regarding the nutricine component to indicate that the nutricine consists of a source of dietary nucleotides. Support for this amendment is found in the specification in paragraphs 0063 and 0064.

This amendment is similar in nature to the amendment done in Applicants' related U.S. Patent Application No. 11/500,835 which resulted in the allowance of that patent application, and, together with the other amendments, is believed to place Claim 1 of the present patent application in condition for allowance as well by indicating that the nutricine component of the claims consists of dietary nucleotides.

Claims 10-13 and 15-17 have been amended to make them consistent with Claim 1 in view of the amendment to Claim 1 with respect to the soluble fiber source.

Applicants have amended Claim 19 to indicate that the source of dietary nucleotides (that was added to Claim 1 as noted in the paragraph above) comprises yeast cell extract. Support for this amendment is found in the specification in paragraph 0064.

Applicants have amended Claim 24 to indicate that the nutriline of Claim 1 additionally comprises yeast cell wall, thereby taking account of the fact that in amended Claim 1 it is indicated that the nutriline component to indicate that the nutriline consists of a source of dietary nucleotides. Thus, it is indicated that the yeast cell wall is an additional constituent of the nutriline component.

Claim 18 was cancelled since a source of dietary nucleotides was added to Claim 1.

Section 102(b) Rejection

The anticipation rejection is moot since old Claim 18, which included language similar to the language added by amendment herein to Claim 1 was not rejected (and indeed could not be rejected) as being anticipated.

Section 103(a) Rejections

The arguments made herein are essentially the same as those made in Applicants' related U.S. Patent Application No. 11/500,835 (which resulted in the allowance of that patent application). In regard to the obviousness rejection it was argued that looking at

the applied references, Harris et al. and Johansen et al., by themselves without knowledge of the present patent application, indicates that there is no reason to combine their teachings. As it was also pointed out in Applicants' related U.S. Patent Application No. 11/500,835, the digestive tract of horses is unique and differs from that of pigs as set forth in paragraph 0009 of the specification. Harris et al. is directed to an equine feed that is supplemented with glutamine or a glutamine source. To the extent Harris et al. is concerned with gastric emptying in equines, the reference teaches that the oil component of the feedstuff may have an effect in this regard. It was pointed out that the Johansen et al. study was conducted on pigs and that Johansen et al. itself indicates that the reports regarding the effect of soluble fiber on gastric emptying are ambiguous. It was urged in Applicants' related U.S. Patent Application No. 11/500,835 that the Examiner read Johansen et al. as a whole. It was also urged that there is no reason to modify the equine feedstuff of Harris et al. by any of the teachings of Johansen et al. since the gastric systems of equines and pigs are different, Harris et al. indicates that gastric emptying in horses may be affected by the oil content of the feedstuff, not soluble fiber, and the Johansen et al. study is strictly limited to observing the effect of soluble fiber on the gastric system of pigs.

Conclusion

Claim 1-17, 19-22, and 24-38 remain pending. Reconsideration of the claimed subject matter is respectfully requested, with an early and favorable decision being solicited. Should the Examiner believe that the prosecution of the application can be so expedited, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

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